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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,164	12/17/2001	Michael Wayne Brown	AUS920010836US1	3969
34533	7590	10/19/2005	EXAMINER	
INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469			NGUYEN, QUYNH H	
		ART UNIT	PAPER NUMBER	
		2642		

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/022,164	BROWN ET AL.
	Examiner	Art Unit
	Quynh H. Nguyen	2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 July 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5,7-30,32-55 and 57-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-5,7-30,32-55 and 57-61 is/are allowed.
- 6) Claim(s) 62-71 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

### ***Response to Amendment***

2. Applicant's amendment filed 7/12/05 has been entered. Claims 1, 26, 51, 62, and 70-71 have been amended. Claims 6, 31, and 56 have been cancelled. No claims have been added. Claims 1-5, 7-30, 32-55, and 57-71 are still pending, with claims 1, 26, 51, 62, and 70-71 being independent.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 62-71 are rejected.

Regarding claims 62 and 70, it is unclear as how the back up party is selected? Is it selected based on the context of the call? Both claims 62 and 70 are missing the step of selecting at least one backup party from among a plurality of backup parties to the intended party according to said context for said call.

Regarding claim 71, it is unclear from where and how the selection of a backup party is made?

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arbel et al. (U.S. Patent 5,276,731).

As to claim 71, Arbel et al. teach a method for controlling a telephony device (abstract, lines 1-2) comprising: receiving an identification (telephone number) of at least one backup party for an intended called requested by a caller utilizing a telephony device (col. 9, line 61 through col. 10, line 27); responsive to detecting said intended callee as unavailable and to receiving a selection from among said at least one backup party, transferring said call to a switch providing service for said selected backup party (col. 10, lines 11-27 - *where Arbel et al. discussed detecting Peter Parker is unavailable, transferring incoming calls to other foremen depending on what time of the day the incoming calls came in*).

Arbel et al. do not teach controlling output of said identification of said at least one backup party via an output interface accessible to said telephony device.

It would have been obvious to one of ordinary skill in the art at the time the invention was made that the selected answering target party would answer the telephone on behalf of that particular target organization instead of the original target. For example, if the incoming call from patient Donna Sago to Dr. Warner and the doctor

is not available, the call is transferred to target party Dr. Hubbard, then the operator would answer the phone "Dr. Hubbard's office, can I help you?"

***Allowable Subject Matter***

7. Claims 1-5, 7-30, 32-55, and 57-61 are allowed.
8. Claims 62 and 70 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh H. Nguyen whose telephone number is 571-272-7489. The examiner can normally be reached on Monday - Thursday from 6:15 A.M. to 4:45 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

qhn

Quynh H. Nguyen

October 17, 2005

  
AHMAD F. MATAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2700